

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-30933
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

STEVEN ERIC LUMPKIN,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 97-CR-60001
- - - - -

April 20, 1999

Before REAVLEY, WIENER and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Steven Eric Lumpkin appeals his guilty plea convictions of seven counts of receiving child pornography and one count of possessing child pornography. Lumpkin argues that the district court plainly erred in applying the cross-reference provision of U.S.S.G. § 2G2.4(c)(1) in determining his base offense level.

Lumpkin's challenge to the applicability of the cross-reference provision (in which he essentially challenges his involvement or intent) raises fact questions that should have

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

been stated at the time of his plea and could subsequently have been resolved by the sentencing court if he had objected to the PSR's findings. Lumpkin has not shown that the district court plainly erred. United States v. Arce, 118 F.3d 335, 344 n.8 (5th Cir. 1997), cert. denied, 118 S. Ct. 705 (1998); Robertson v. Plano City of Texas, 70 F.3d 21, 23 (5th Cir. 1995).

Accordingly, the judgment of the district court is AFFIRMED.